



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

January 18, 2022

Re: FOIA Request NLRB-2022-000308

Dear Etta Danielson (International Union of Operating Engineers):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on December 16, 2021, in which you seek "NLRB Elections 'R' cases for Fiscal Year 2021 (October 1, 2020 to September 30, 2021)," specifying the following data fields: Case Number; Case Name; Employer Address; Employer City; Employer State; Election Held Date; Number of Eligible Voters; Valid Votes for; Valid Votes against; Votes for Labor Org1; Votes for Labor Org2; Labor Org1 Name; Labor Org2 Name; Union Won/Lose; Case Closed Date; Union to Certify; Petitioner; Valid Votes Cast; Unit; Unit Size. You assumed financial responsibility for the processing of your request in the amount of \$100.00.

We acknowledged your request on December 16, 2021.

Pursuant to the FOIA, a reasonable search was conducted in the Agency's electronic casehandling system, NxGen. The search produced the requested representation case data for October 1, 2020 through September 30, 2021, which is being provided to you in the attached Excel spreadsheet. The search query pulled a few additional fields pertaining to the case data which we have included in the spreadsheet for completeness.

Please note that due to the way that representation case data is saved in NxGen, an "Election Scheduled" data query was used to retrieve the requested field of "Election Held" as it is more accurate to pull information for cases where multiple elections were scheduled and/or held. Thus, for your reference, if a case has an Election Scheduled Date listed with a populated "Tally Date," then the election was held.

In addition, NxGen does not contain a field for "Union Won/Lose" but you will find the information is contained in the column "Closed Reason". That is, if the "Closed Reason" is "Certific. of Representative," then the union won. If the "Closed Reason" is "Certification of Results," then the union lost.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you “will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

One hour of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$37.00.

Payment Instructions: Due to the COVID-19 pandemic and resulting widespread employee telework at the Agency’s Headquarters offices, we are no longer accepting checks or money orders as payment at this time. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select “Pay a FOIA Request.” Click “See all options” and go to “Filter By Agency” to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Jodilyn Breirather, the FOIA Specialist who processed your request, at (202) 368-1927 or by email at Jodilyn.Breirather@nrlrb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records

Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (one Excel spreadsheet)